Jul 28 2005 15:30

ELI LILLY AND CO

Serial No. 10/613619

RECEIVED
CENTRAL FAX CENTER
JUL 2 8 2005

<u>Remarks</u>

DOUBLE PATENTING REJECTION

The Office rejected claims 1, 3-7, 10-17, 21-24, and 34 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,617,321 B2 in view of Martin et al. US 5,292,760.

While Applicants do not necessarily agree with the Office's assessment of the claims under the obviousness-type double patenting rejection, Applicants provide, only in order to expedite prosecution, a terminal disclaimer pursuant to 37 C.F.R § 1.321. Applicants further submit that the filing of this terminal disclaimer is not an admission or acquiescence by, nor shall act as an estoppel upon, the Applicants on the merits of the rejection.

In view of the presently submitted terminal disclaimer, Applicants submit that claims 1, 3-7, 10-17, 21-24, and 34 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested and allowance of claims 1, 3-7, 10-17, 21-24, and 34 is kindly solicited.

Respectfully submitted,

Nelsen L. Lentz

Attorney/Agent for Applicant(s)

Registration No. 38,537 Phone: 317-276-1207

Eli Lilly and Company Patent Division/ P.O. Box 6288

Indianapolis, Indiana 46206-6288

Enclosure: Terminal Disclaimer

Extention for Reply within 1 month